

Michael R. Lozeau (State Bar No. 142893)  
Richard T. Drury (State Bar No. 163559)  
Douglas J. Chermak (State Bar No. 233382)  
LOZEAU DRURY LLP  
410 12<sup>th</sup> Street, Suite 250  
Oakland, CA 94607  
Tel: (510) 836-4200  
Fax: (510) 836-4205 (fax)  
E-mail: michael@lozeaudrury.com  
doug@lozeaudrury.com

Attorneys for Plaintiffs  
NORTHERN CALIFORNIA RIVER WATCH,  
TEAMSTERS LOCAL 70, and EAST BAY  
ALLIANCE FOR A SUSTAINABLE ECONOMY

**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

NORTHERN CALIFORNIA RIVER WATCH,  
a non-profit corporation; TEAMSTERS  
LOCAL 70, a labor organization; and EAST  
BAY ALLIANCE FOR SUSTAINABLE  
ECONOMY, a non-profit organization,

Plaintiffs,

v.

OAKLAND MARITIME SUPPORT  
SERVICES, INC., a corporation; WILLIAM  
ABOUDI, an individual; and JORGE  
GONZALEZ RIVERA d.b.a. CHRISTIAN  
BROTHERS TRUCK SERVICES, an  
individual; REDEVELOPMENT AGENCY OF  
THE CITY OF OAKLAND, a local public  
agency, and CITY OF OAKLAND, a  
municipality;

Defendants.

Case No.: 4:10-cv-3912 CW-JSC

**JOINT STATUS REPORT RE  
SETTLEMENT REVIEW/APPROVAL  
PROCESS; REQUEST TO CONTINUE  
CASE MANAGEMENT CONFERENCE  
FOR APPROXIMATELY 30 DAYS;  
~~PROPOSED~~ ORDER**

Date: CMC January 21, 2014;  
Time: 2:00  
Courtroom 2, 4<sup>th</sup> Floor

Hon. Presiding Judge Claudia Wilken

As noted in the Joint Status Report filed on October 24, 2013 (Document No. 120), the parties have reached a settlement resolving all claims in this action. As also explained in the October Joint Status Report, the settlement cannot be approved by this Court until it has been reviewed by certain federal agencies. Specifically, Title 33 of the United States Code, Section 1365(c)(2) (a portion of the Clean Water Act) provides that “[n]o consent judgment shall be

1 entered in an action in which the United States is not a party prior to 45-days following the  
2 receipt of a copy of the proposed consent judgment by the Attorney General and the  
3 Administrator [of the Environmental Protection Agency]”. *See also* 40 C.F.R. § 135.5 (requiring  
4 settling parties to provide notice to the court of the 45-day agency review period under 33 U.S.C.  
5 § 1365(c)).

6 The 45-day review period required by Section 1365(c)(2) is underway. Notice was  
7 mailed to the federal agencies on December 20, 2013. On December 31, 2013, the federal  
8 agencies acknowledged receipt of the settlement agreement. Based on the acknowledgement  
9 correspondence, the parties anticipate that the federal agencies’ review period will end on  
10 February 6, 2014 (allowing 45 days for the review itself and approximately nine days for mailing  
11 time).

12 If any of the reviewing agencies objects to the proposed Settlement Agreement, the  
13 parties would promptly attempt to meet and confer in an effort to resolve the federal agencies’  
14 concern(s). The parties might also elect to bring a motion seeking the Court’s approval for the  
15 settlement notwithstanding the federal agencies’ objection(s). In any event, once the 45-day  
16 review period runs early next month, the parties will be in a position to file with the Court either  
17 a Stipulation for Approval of Settlement Agreement or a notice (that the federal agencies have  
18 objected) and a proposal to the Court for how the matter should proceed.

19 The parties propose to make such a filing no later than February 19, 2014, so that if  
20 needed a CMC could be held on February 26<sup>th</sup>. The parties make that proposal in light of (1)  
21 the statutory requirement to await the conclusion of the federal agencies’ 45-day review period,  
22 (2) the interests of efficiency and judicial economy, and the parties’ shared desire to avoid  
23 unnecessary litigation expense, and (3) Oakland’s counsel being unavailable (due to long  
24 planned out-of-state travel) to attend a CMC on February 19<sup>th</sup> (which would be the first available  
25 date consistent with the review period ending on February 6<sup>th</sup> and the Court’s filing deadline for  
26 CMC statements).

27 The parties would stress that a CMC on February 26<sup>th</sup> is not a foregone conclusion. If the  
28

1 federal agencies do not raise any objection(s) to the Settlement Agreement, or if any such  
2 objection(s) can be promptly resolved in a fashion agreeable to all the stakeholders, the parties  
3 anticipate that they would simply file a Stipulation for an order approving the settlement and  
4 ultimately dismissing the action with prejudice. In that event, there would be no need for a CMC  
5 on February 26<sup>th</sup>, and the parties would of course so advise the Court as early as possible.  
6

7 Dated: January 15, 2014

8 /s/ Michael R. Lozeau

9 MICHAEL R. LOZEAU  
Attorney for Plaintiffs

10 Dated: January 15, 2014

11 /s/ Meredith E. Brown

12 (as authorized on 1/15/2014)  
13 MEREDITH E. BROWN  
14 Attorney for Defendants  
OAKLAND MARITIME SUPPORT  
SERVICES, INC. and WILLIAM ABOUDI

15 Dated: January 15, 2014

16 /s/ Robert Doty

17 (as authorized on 1/15/2014)  
18 ROBERT DOTY  
19 Attorney for Defendants  
20 CITY OF OAKLAND and  
REDEVELOPMENT AGENCY OF THE  
CITY OF OAKLAND

21  
22 **GOOD CAUSE APPEARING**, and with the consent of all parties in this action, **THE**  
23 **CASE MANAGEMENT CONFERENCE SET FOR JANUARY 22<sup>ND</sup> IS CONTINUED TO**  
24 **FEBRUARY 26, 2014, AT 2:00. IT IS SO ORDERED.**

25  
26 Dated: January 16, 2014

27 Claudia Wilken  
Hon. Claudia Wilken  
United States District Chief Judge